

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FERMINA BRITO,

Plaintiff,

v.

KILOLO KIJAKAZI,¹ Acting
Commissioner of the Social Security
Administration

Defendant.

CIVIL ACTION

NO. 21-1899

ORDER

AND NOW, this 12th day of June 2023, upon careful consideration of Plaintiff Fermina Brito's Brief and Statement of Issues in Support of Request for Review (ECF 11), the Social Security Commissioner's Response (ECF 19), Brito's Reply (ECF 24), the Administrative Record (ECF 8) and the Report and Recommendation filed by United States Magistrate Judge Lynne A. Sitarski (ECF 25), and it appearing that neither Plaintiff nor the Commissioner have objected to the report,² it is hereby **ORDERED** that:

1. the Report and Recommendation is **APPROVED** and **ADOPTED**;³

¹ Kilolo Kijakazi became the Acting Commissioner of the Social Security Administration on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi has been substituted for Andrew Saul as the Defendant in this case.

² The Report and Recommendation was sent to all parties of record on January 10, 2023, together with a Notice from the Clerk of Court (ECF 25-2) advising the parties of their obligation to file any objections within 14 days after service of the Notice. *See* Local R. Civ. P. 72.1 IV(b) ("any party may object to a magistrate judge's proposed findings, recommendations or report under 28 U.S.C. § 636(b)(1)(B), and subsections 1(c) and (d) of this Rule within fourteen (14) days after being served with a copy thereof.") As of today's date, no objections have been filed.

³ When no objection is made to a Report and Recommendation, the Court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b) advisory committee notes; *see also Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998). No clear error appears on the face of the record and the Court accordingly accepts Judge Sitarski's

2. Plaintiff's request for review is **GRANTED**, and the decision of the Commissioner of Social Security is **REVERSED** to the extent that the matter is **REMANDED** to the Commissioner under sentence four of 42 U.S.C. § 405(g)⁴ for further proceedings consistent with the Report and Recommendation; and
3. the Clerk of Court shall **CLOSE** this case.

BY THE COURT:

/s/ Gerald J. Pappert
GERALD J. PAPPERT, J.

Recommendation.

⁴ “The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g).